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SMART & BIGGAR*Intellectual Property & Technology Law***To Fax no.:** (705) 308-25711000 De La Gauchetière Street West
Suite 3400**Page 1 of:** 6

Montreal, Quebec Canada H3B 4W5

Attention: Gerald B. Klebe, Examiner
USPTOTel. (514) 954-1500
Fax (514) 954-1396**From:** Marc Gagnon**Your file no.:** Application No. 10/038,578**Date:** July 16, 2003

Filing Date: January 8, 2002

Reply to Montreal file no.: 86421-5**Time:**

(formerly 85493-423)

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CERTIFICATE OF TRANSMISSION BY FACSIMILE (37 CFR 1.8)

Applicant(s): DUROCHER, Jacques

Docket No.

86421-5

Serial No.
10/038,578Filing Date
January 8, 2002Examiner
Gerald B. KlebeGroup Art Unit
3618

Invention: VIBRATION ABSORPTION SYSTEM FOR IN-LINE ROLLER SKATES AND ICE SKATES

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Docket No.

86421-5

In Re Application Of: **DUROCHER, Jacques**

Serial No.	Filing Date	Examiner	Group Art Unit
10/038,578	January 8, 2002	Gerald B. Klebe	3618

Title: **VIBRATION ABSORPTION SYSTEM FOR IN-LINE ROLLER SKATES AND ICE SKATES**

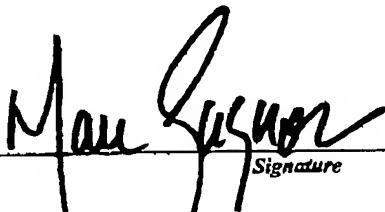
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Marc Gagnon, Reg. No. 51,273
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Dated: **July 16, 2003**

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Attorney Docket: 86421-5 (formerly 85493-423)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	DUROCHER, Jacques	Art Unit:	3618
Serial Number:	10/038,578	Examiner:	Gerald B. Klebe
Filing Date:	January 8, 2002		
Title:	VIBRATION ABSORTION SYSTEM FOR IN-LINE ROLLER SKATES AND ICE SKATES		

Assistant Commissioner for Patents
Washington, D.C. 20231

SIR:

Responsive to the restriction requirement stated in Paper No. 4, mailed on June 16, 2003 for the patent application identified above, the applicant responds as follows.

The applicant has been required, under 35 U.S.C. § 121, to provisionally elect a single disclosed species for further prosecution on the merits to which the claims shall be restricted if no generic claim is finally held allowable. The Office Action identifies the following four species: Species I (illustrated in Figures 1-6), Species II (illustrated in Figures 7-9), Species III (illustrated in Figure 10), and Species IV (illustrated in Figure 11).

The applicant respectfully traverses the restriction requirement to the extent that Figures 1-6 and Figures 7-9 are identified as illustrating separate species. While Species I does not comprise a front vibration absorption system, Species II comprises such system which constitutes the difference between the embodiments illustrated in respective Figures 1-6 and 7-9: *"A resilient member 104 such as a flat deformable rubber is installed between the bridge portion 72 of chassis 48 and the underside of outsole [sic] 40. [...] This arrangement [the one of the embodiment illustrated in Figures 7-9] allows the front*

end of chassis 48 to move up and down relative to skate boot 20 thereby absorbing at the front of the skate, shocks and vibrations induced by a rough skating surface (lines 4-10 on page 10 of the specification).

Moreover, the aforesaid embodiments respectively cover rear vibration absorption systems that are not patentably distinct: "*As in the first embodiment depicted in figures 1 to 6, the rear or heel portion of outsole 40 is split in two segments including an upper platform 50 and a lower platform 52 which forms a fork-like heel structure. The fork-like heel structure includes an absorption insert 56 made of deformable and elastic material which is sandwiched between upper and lower platforms 50 and 52. Absorption insert 56 acts as a cushioning and vibration absorption device that attenuates the transfer of shocks and vibrations to the skater's heel as previously described.*" (lines 23-29 on page 10 of the specification).

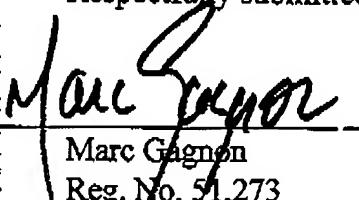
The shape of the insert 56 does not render these embodiments to be considered as being distinct species: "*Insert 56 can be made in a variety of elastomer material with various hardness or durometer gauges such that under pressure, insert 56 yields and its shape is altered thereby absorbing energy. The elastomer body of insert 56 may have a series of holes or areas with less material to provide more room for deforming the insert. Insert 56 may also include a large pocket of air or gas enclosed within its elastomer body or a series of smaller air pockets also enclosed within its elastomer body to provide some pneumatic resiliencies to insert 56. Many variations of designs of insert 56 are possible within the spirit and scope of the present invention.*" (lines 18-25 on page 7 of the specification).

The applicant therefore submits that the embodiments illustrated in Figures 1-6 and 7-9 respectively are both patentable in a single patent application.

In order to provide a complete response to the restriction requirement, the applicant elects to prosecute Species I illustrated in Figures 1-6 (and in Figures 7-9). Claims 1-6 and 10-14 read on Species I. A divisional application may later be filed to prosecute the non-elected species.

The Examiner is invited to call the applicant's undersigned representative if any further explanation will expedite the prosecution of the application, or if the Examiner has any suggestions or questions concerning the application or the present response.

Respectfully submitted,



Marc Gagnon
Reg. No. 51,273

Dated: July 16, 2003

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